



[4910-13-P]

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

**[Docket No. FAA-2020-0202; Product Identifier 2020-NM-025-AD; Amendment 39-19921; AD 2020-12-12]**

**RIN 2120-AA64**

**Airworthiness Directives;** Yaborã Indústria Aeronáutica S.A. (Type Certificate previously held by Embraer S.A.) Airplanes

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Yaborã Indústria Aeronáutica S.A. Model ERJ 170 airplanes and Model ERJ 190-100 STD, -100 LR, -100 ECJ, -100 IGW, -200 STD, -200 LR, and -200 IGW airplanes. This AD was prompted by reports of cracks discovered on the engine pylon inboard lower link lugs. This AD requires repetitive detailed inspections of the engine inboard and outboard engine pylon lower link lugs for cracking, and repair if necessary, as specified in an Agência Nacional de Aviação Civil (ANAC) AD, which is incorporated by reference.

The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective [INSERT DATE 35 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

The Director of the Federal Register approved the incorporation by reference of a

certain publication listed in this AD as of [INSERT DATE 35 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** For ANAC material incorporated by reference (IBR) in this AD, contact National Civil Aviation Agency (ANAC), Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230 – Centro Empresarial Aquarius – Torre B – Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246-190 – São José dos Campos – SP, BRAZIL, Tel: 55 (12) 3203-6600; E-mail: [pac@anac.gov.br](mailto:pac@anac.gov.br); Internet [www.anac.gov.br/en/](http://www.anac.gov.br/en/). You may find this IBR material on the ANAC website at <https://sistemas.anac.gov.br/certificacao/DA/DAE.asp>. You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available in the AD docket on the Internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0202.

#### **Examining the AD Docket**

You may examine the AD docket on the Internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0202; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Krista Greer, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3221; email [krista.greer@faa.gov](mailto:krista.greer@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Discussion**

The ANAC, which is the aviation authority for Brazil, has issued ANAC AD 2020-01-02, effective January 28, 2020 (“ANAC AD 2020-01-02”) (also referred to as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for all Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.) Model ERJ 170-100 LR, -100 STD, -100 SE, -100 SU, -200 LR, -200 SU, -200 STD, and -200 LL airplanes; and Model ERJ 190-100 STD, -100 LR, -100 ECJ, -100 IGW, -100 SR, -200 STD, -200 LR, and -200 IGW airplanes. Model ERJ 190-100 SR airplanes are not certified by the FAA and are not included on the U.S. type certificate data sheet; therefore, this AD does not include those airplanes in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Model ERJ 170 airplanes and Model ERJ 190-100 STD, -100 LR, -100 ECJ, -100 IGW, -200 STD, -200 LR, and -200 IGW airplanes. The NPRM published in the Federal Register on March 20, 2020 (85 FR 16016). The NPRM was prompted by reports of cracks discovered on the engine pylon inboard lower link lugs. The NPRM proposed to require repetitive detailed inspections of the engine inboard and outboard engine pylon lower link lugs for cracking, and repair if necessary, as specified in an ANAC AD.

The FAA is issuing this AD to address cracking of the engine pylon lower link lugs, which could cause the loss of engine pylon integrity, and could result in engine separation from the wing, loss of airplane controllability, and possible injury to persons on the ground. See the MCAI for additional background information.

### **Comments**

The FAA gave the public the opportunity to participate in developing this final rule. The following presents the comments received on the NPRM and the FAA's response to each comment.

### **Request to Add the “Required for Compliance” (RC) Paragraph**

Yaborã Indústria Aeronáutica S.A. requested inclusion of RC language in the proposed AD. The commenter noted that steps in the service information that are indicated as RC have a direct effect on detecting, preventing, resolving, or eliminating the unsafe condition addressed in an AD. The commenter further stated that the service information referenced in the proposed AD would be revised to denote steps that must be done to comply with the AD as RC.

The FAA agrees with the request for the reasons provided and has added the requested language in paragraph (i)(3) of this AD and re-identified paragraph (i)(3) of the proposed AD as paragraph (i)(4) of this AD.

### **Request to Use Alternate Access Method for Inspection**

JetBlue Airways requested approval to perform the inspection required by the proposed AD by removing access door 419WL and access panel 419UR of the left-hand (LH) pylon, and access door 429XR and access panel 429TL of the right-hand (RH) pylon, instead of removing the side fairings. The commenter stated that previous

inspections of 50 airplanes in their fleet indicated there was sufficient access to perform a visual inspection of the pylon lower link lug without removing the side fairings. The commenter also stated that removal of the side fairings can damage secondary structures inside the fairings, causing additional rework or replacement, as well as additional costs.

The FAA does not agree to approve the alternate access request. A detailed inspection, such as the one required by this AD, requires an intensive examination of the subject area, which may necessitate surface cleaning, additional lighting, and use of magnification. Removal of the specified access panels and doors instead of the side fairings does not give sufficient access for performing this detailed inspection. The AD has not been changed in this regard.

## **Conclusion**

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule with the changes described previously and minor editorial changes. The FAA has determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

The FAA also determined that these changes will not increase the economic burden on any operator or increase the scope of this final rule.

## **Related IBR Material under 1 CFR Part 51**

ANAC AD 2020-01-02 describes procedures for repetitive detailed inspections of LH and RH inboard and outboard engine pylon lower link lugs for cracking, and repair if necessary. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

## **Costs of Compliance**

The FAA estimates that this AD affects 659 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

### **Estimated costs for required actions**

<b>Labor cost</b>	<b>Parts cost</b>	<b>Cost per product</b>	<b>Cost on U.S. operators</b>
3 work-hours X \$85 per hour = \$255	\$0	\$255	\$168,045

The FAA estimates that it would take about 1 work-hour per product to comply with the reporting requirement in this AD. The average labor rate is \$85 per hour. Based on these figures, the FAA estimates the cost on U.S. operators of reporting the inspection results to be \$56,015, or \$85 per product.

The FAA has received no definitive data that would enable the FAA to provide cost estimates for the on-condition actions specified in this AD.

## **Paperwork Reduction Act**

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control

number for the collection of information required by this AD is 2120-0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177-1524.

### **Authority for this Rulemaking**

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### **Regulatory Findings**

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the

national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a “significant regulatory action” under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### **List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### **Adoption of the Amendment**

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

#### **PART 39 - AIRWORTHINESS DIRECTIVES**

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

#### **§ 39.13 [Amended]**

2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**2020-12-12 Yaborã Indústria Aeronáutica S.A. (Type Certificate previously held by Embraer S.A.) Airplanes:** Amendment 39-19921; Docket No. FAA-2020-0202; Product Identifier 2020-NM-025-AD.

#### **(a) Effective Date**

This AD is effective [INSERT DATE 35 DAYS AFTER DATE OF



PUBLICATION IN THE FEDERAL REGISTER].

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all Yaborã Indústria Aeronáutica S.A. (Type certificate previously held by Embraer S.A.) airplanes specified in paragraphs (c)(1) and (2) of this AD, certificated in any category.

(1) Model ERJ 170-100 LR, -100 STD, -100 SE, -100 SU, -200 LR, -200 SU, -200 STD, and -200 LL airplanes.

(2) Model ERJ 190-100 STD, -100 LR, -100 ECJ, -100 IGW, -200 STD, -200 LR, and -200 IGW airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 54, Nacelles/pylons.

**(e) Reason**

This AD was prompted by reports of cracking on the left-hand (LH) and right-hand (RH) sides of engine pylon inboard lower link lugs. The FAA is issuing this AD to address cracking of the engine pylon lower link lugs, which could cause the loss of engine pylon integrity, and could result in engine separation from the wing, loss of airplane controllability, and possible injury to persons on the ground.

**(f) Compliance**

Comply with this AD within the compliance times specified, unless already done.

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Agência Nacional de Aviação Civil (ANAC) AD 2020-01-02, effective January 28, 2020 (“ANAC AD 2020-01-02”).

**(h) Exceptions to ANAC AD 2020-01-02**

(1) Where ANAC AD 2020-01-02 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where ANAC AD 2020-01-02 requires contacting “ANAC and Embraer ... to approve an adequate repair,” for this AD, obtain repair instructions using the procedures specified in paragraph (i)(2) of this AD and do the repair.

(3) The “Alternative methods of compliance (AMOCs)” section of ANAC AD 2020-01-02 does not apply to this AD.

(4) Paragraph (e) of ANAC AD 2020-01-02 specifies to report inspection results to ANAC and Yaborã Indústria Aeronáutica S.A. within a certain compliance time. For this AD, report inspection results at the applicable time specified in paragraph (h)(4)(i) or (ii) of this AD.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

**(i) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or ANAC; or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

(3) *Required for Compliance (RC)*: For service information that contains steps that are labeled as RC, the provisions of paragraphs (i)(3)(i) and (ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled "RC Exempt," then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(4) *Paperwork Reduction Act Burden Statement:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120-0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory as required by this AD. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177-1524.

**(j) Related Information**

For more information about this AD, contact Krista Greer, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3221; email [krista.greer@faa.gov](mailto:krista.greer@faa.gov).

**(k) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Agência Nacional de Aviação Civil (ANAC) AD 2020-01-02, effective January 28, 2020.

(ii) [Reserved]

(3) For information about ANAC AD 2020-01-02, contact ANAC, Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230 – Centro Empresarial Aquarius – Torre B – Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246-190 – São José dos Campos – SP, BRAZIL, Tel: 55 (12) 3203-6600; E-mail: [pac@anac.gov.br](mailto:pac@anac.gov.br). You may find this IBR material on the ANAC website at <https://sistemas.anac.gov.br/certificacao/DA/DAE.asp>.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. This material may be found in the AD docket on the Internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0202.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov), or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued on June 18, 2020.

Gaetano A. Sciortino, Deputy Director for Strategic Initiatives,  
Compliance & Airworthiness Division,  
Aircraft Certification Service.

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